

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HUI YING FENG and GUO FA FENG,

Plaintiffs,

-against-

UNITED STATES OF AMERICA

Defendant.

VERIFIED COMPLAINT

ECF CASE
Docket No. 20-cv-02686

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Plaintiffs, HUI YING FENG and GUO FA FENG, through their attorneys, SIM & DEPAOLA, LLP, complaining of the Defendant, UNITED STATES OF AMERICA respectfully allege, upon information and belief, as follows:

THE PARTIES

1. Plaintiff, HUI YING FENG, was and still is an adult individual residing in Brooklyn in the State of New York.
2. Plaintiff, GUO FA FENG, was and still is an adult individual residing in Brooklyn in the State of New York.
3. That at all times hereinafter mentioned, Plaintiff, GUO FA FENG, was and continues to be, the lawful spouse of HUI YING FENG.
4. Starting on or about October 9, 2017 and thereafter mentioned, Plaintiff HUI YING FENG, was a patient of WOJCIECH RYNCARZ, M.D. at NYU Langone Hospitals.

5. That at all times hereinafter mentioned, WOJCIECH RYNCARZ, M.D., is an adult individual who was, and still is, a medical doctor authorized and licensed by the State of New York to provide medical services to the general public.
6. That at all times hereinafter mentioned, upon information and belief, WOJCIECH RYNCARZ, M.D., provided professional services to the public in general, and in particular to Plaintiff HUI YING FENG.
7. That at all times hereinafter mentioned, upon information and belief, WOJCIECH RYNCARZ, M.D. was an employee of the UNITED STATES OF AMERICA when he provided said professional services to the public in general, and to Plaintiff HUI YING FENG in particular
8. Defendant UNITED STATES OF AMERICA (“UNITED STATES”) is being sued for Plaintiff’s personal injuries caused by the negligence or wrongful acts of its employee, in this case WOJCIECH RYNCARZ, M.D., who was acting within the scope his employment when he behaved negligently and wrongly towards Plaintiff.
9. That at all times starting on or about October 9, 2017 and thereafter, WOJCIECH RYNCARZ, M.D., failed in his capacity as a physician to perform the applicable standard of medical care during his treatment of the Plaintiff, HUI YING FENG, which proximately resulted in severe injuries and damages to the Plaintiff.
10. Plaintiff HUI YING FENG filed an administrative tort claim with the appropriate federal agency within 2 years of the injury.
11. More than six months have elapsed and the Defendant has not made any determinations. As such, the Plaintiffs commences this action timely,

JURISDICTION AND VENUE

12. This action is pursuant to 28 USC 1346 (b) (1). WOJCIECH RYNCARZ, M.D. was at the time of incident an employee of Defendant UNITED STATES and was operating in his capacity as a federal employee when he inflicted the aforementioned injuries upon the plaintiff.
13. This court has jurisdiction over any claims arising from 18 USC 1346 (b) (1) arising within the geographic limits of the Eastern District of New York.
14. All of the acts or omissions giving rise to Plaintiff's claim arose within the Eastern District of New York. Venue is therefore proper under 28 USC 1402 (b).

BACKGROUND

15. Plaintiff HUI YING FENG received medical treatment, including but not limited to surgical removal of an IUD, from WOJCIECH RYNCARZ, M.D. in the period lasting from roughly October 9 to October 12, 2017.
16. Following the IUD removal, Plaintiff HUI YING FENG eventually experienced severe medical complications resulting in immense pain and suffering and long-term physical disability directly caused by the medical treatment she received from WOJCIECH RYNCARZ, M.D., an employee of Defendant UNITED STATES.
17. On June 13, 2019, Plaintiff HUI YING FENG timely filed an administrative tort claim with the Claims Office of the Department of Health and Human Services located at 300 C Street, District of Columbia.
18. The Claims Office of the Department of Health and Human Services provided Plaintiff HUI YING FENG, with confirmation of receipt of said administrative tort claim, via a letter dated June 24, 2019.
19. Having received no answer regarding her administrative tort claim, Plaintiff HUI

YING FENG now proceeds to file the instant action against Defendant UNITED STATES.

COUNT ONE
(NEGLIGENCE/MEDICAL MALPRACTICE - WOJCIECH RYNCARZ, M.D.)

20. Plaintiffs repeat, reiterate and reallege all of the allegations in this Complaint marked and designated "1" through "17" with same force and effect as if herein set forth at length and further allege that:
21. At all times starting on or about October 9 to October 12, 2017, WOJCIECH RYNCARZ, M.D., provided medical services to the Plaintiff, HUI YING FENG, at NYU Langone Hospitals located on 150 55th Street, Brooklyn, New York 11220.
22. That at all times hereinafter mentioned, starting on or about October 9, 2017 and thereafter, WOJCIECH RYNCARZ, M.D., by his servants, agents and/or employees, had a duty to properly examine, diagnose, medicate, operate, treat and care for the Plaintiff, and to provide adequate, proper, and sufficient gynecologic and surgical care, treatment, diagnostic tests, radiology tests, evaluations, surgery and advice to the Plaintiff before discharging her and negligently operating on Plaintiff, thereby causing Plaintiff to undergo multiple unnecessary surgeries and thereby sustain severe injuries.
23. That at all times from roughly October 9 to October 12, 2017, WOJCIECH RYNCARZ, M.D., his agents, servants and employees rendered gynecologic and surgical medical care, diagnosis, treatment, surgery and services to Plaintiff HUI YING FENG, which fell below the standard of care required of her, thus constituting medical malpractice.

24. That at all times hereinafter mentioned, upon information and belief, starting on or about October 9 to October 12, 2017, and thereafter, the above medical care, diagnosis, treatment, surgery and services rendered to Plaintiff HUI YING FENG, were rendered carelessly, unskillfully, negligently, and not in accordance with accepted standards of medical, gynecologic and surgical care, diagnosis, treatment and services in the community because WOJCIECH RYNCARZ, M.D., acting as a physician and as an employee of Defendant UNITED STATES: (1) failed to timely and/or properly request, obtain, read, review, and consider Plaintiff's prior medical history and records in order to properly determine the true medical conditions of HUI YING FENG; (2) failed to properly provide Plaintiff IUD removal surgery which developed gross hematuria and caused an injury full thickness of the bladder and to the right ureter; (3) failed to render proper advice to Plaintiff for the extraction of an IUD; (4) failed to provide further diagnostic tests and/or any other sufficient tests, radiology imaging, and scans to determine the true medical conditions of Plaintiff to avoid serious complication and/or unnecessary injuries to Plaintiff; (5) failed to provide a proper medical history of Plaintiff and make such necessary medical evaluation disclosure available for other treating physicians of Plaintiff; (6) failed to refer and/or transfer Plaintiff to a specialist and/or facility for further medical interventions prior to advising Plaintiff to undergo a surgery; (7) failed to give the Plaintiff proper instructions concerning her care and treatment; (8) failed to use due care in the procedures performed, examination, treatment, medication and diagnosis of the Plaintiff's physical conditions and complaints; (9) failed to follow good, known and accepted customs and practices of the medical profession; (10)

failed to properly disclose reasonably foreseeable risks and benefits in the care and treatment rendered to Plaintiff; (11) failed to properly obtain informed consent of Plaintiff; in that Plaintiff was scheduled for a surgery on October 11, 2017 at NYU Langone Hospitals; (12) failed to properly, appropriately and adequately use his best medical knowledge to perform the operations, procedures and surgeries on Plaintiff; (13) treated and operated on the Plaintiff in a manner contrary to accepted rules and standards of the community wherein the said surgeries and/or procedures were rendered to Plaintiff in a negligent manner; (14) failed to properly ensure that the prescribed treatments and gynecologic and surgical care were properly and accurately planned and rendered to HUI YING FENG; (15) failed to possess the requisite knowledge, experience and professional skill to recognize, detect, discover Plaintiff's true condition and properly operate on Plaintiff; (16) failed to properly diagnose plaintiff's true condition;

25. As a direct and proximate result of the negligence and malpractice of WOJCIECH RYNCARZ, M.D., in his medical care and treatment of Plaintiff HUI YING FENG, Plaintiff sustained catastrophic and permanent personal injuries, pain and agony, suffered and will continue to suffer serious medical complications, including the need for further surgical intervention, loss of reproductive system, extreme pain and suffering, and the inability to perform daily activities, all of which could have been easily avoided had the Defendant exercised the required standard of care and expertise, thus constituting medical malpractice and negligence, and which fall below the accepted standards of medical care.
26. The injuries and damages sustained by Plaintiff HUI YING FENG, were

proximately caused by the negligence and malpractice of WOJCIECH RYNCARZ, M.D., while acting in his capacity as an employee of Defendant UNITED STATES.

27. Plaintiffs further reallege that Plaintiff's injuries are indivisible injuries for which each Defendant is jointly and severally liable with any other tortfeasors, whether parties to the action or not.

28. By reason of the above, the careless, negligent, and unskillful care, treatment, diagnosis, surgery, services provided to Plaintiff HUI YING FENG, by WOJCIECH RYNCARZ, M.D., while acting in his capacity as an employee of Defendant UNITED STATES, Plaintiff suffered economic and non-economic damages from the failed medical procedures, surgeries, and medical treatments. The Plaintiff suffered permanent, irreparable damage to and loss of the reproductive system which renders her incapable of normal daily activity, loss of enjoyment of life and loss of quality of life.

COUNT TWO
(LACK OF INFORMED CONSENT)

29. The Plaintiffs repeat, reiterate, and re-allege each and every allegation as set forth in Paragraphs "1" through "39" of the Complaint with the same force and effect as though the same were set forth more fully herein and further allege that:

30. At all times mentioned herein, WOJCIECH RYNCARZ, M.D., had a duty to properly advise, disclose reasonably foreseeable risks and benefits in the care and treatment rendered to Plaintiff and properly obtain informed consent.

31. At all times mentioned herein, WOJCIECH RYNCARZ, M.D., failed to inform Plaintiff of the reasonably foreseeable risks and benefits of, and alternatives to, the

surgeries which resulted in Plaintiff suffering from severe bleeding; severe bladder and ureteral injuries; multiple surgeries; worsening medical conditions; loss of reproductive system, injuries to the organs, tissues, and nerves; delay in antibiotic treatment; and delay in cancer treatment; all of which would have been disclosed by reasonable medical practitioners in similar circumstances, in consequence of which Defendants failed to obtain an informed consent thereto.

32. That at no time during the aforesaid care and treatment was HUI YING FENG ever advised, either orally or in writing, of the possible risks and dangers, including permanent damage. At no point did the WOJCIECH RYNCARZ, M.D. or any of his agents, servants, or employees ever inform HUI YING FENG of the possible risk and dangers involved with the surgeries and procedures that were to be performed. Had she been properly informed, HUI YING FENG would not have been lulled into a false sense of security and would not have consented to the treatment rendered which resulted in damages to HUI YING FENG in the manner aforesaid.

33. A reasonably prudent person would not have undergone the treatment rendered herein if she had been fully informed.

34. The lack of informed consent alleged herein was a proximate cause of the injuries, conditions and disabilities for which recovery is sought.

35. That by reason of the foregoing, the Plaintiff was severely injured and damages, rendered sick, sore, sustained injuries which will necessitate surgery and further medical care and treatment, and suffered serious, grievous and permanent physical injuries and additional injuries and constant pain and suffering, all to Plaintiff's

damage; she will be permanently caused to suffer pain, inconvenience and other adverse effects of such injuries; she incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and she will be unable to pursue her usual duties as well as recreational and social activities with the same degree of efficiency and pleasure as prior to the negligent care and treatment HUI YING FENG received. Plaintiff HUI YING FENG suffered permanent, irreparable damage to and loss of the reproductive system which renders her incapable of normal daily activities, loss of enjoyment of life and loss of quality of life.

36. By reason of the careless, negligent and unskillful medical care, treatment, diagnosis, services, Plaintiffs incurred out of pocket expenses including medical expenses.

37. The damages suffered by the Plaintiffs were caused by reason of the negligence and malpractice of WOJCIECH RYNCARZ, M.D., acting in his capacity as an employee of Defendant UNITED STATES, with no negligence on the part of the Plaintiff contributing thereto.

COUNT THREE
(LOSS OF CONSORTIUM)

38. Plaintiffs repeat and reallege all of the allegations in this Complaint marked and designated "1" through "50" with same force and effect as if herein set forth at length and further alleges that:

39. That at all times hereinafter, Plaintiff, GUO FA FENG, was and still is the spouse of the Plaintiff, HUI YING FENG, and as such, entitled to the society, services and consortium of his spouse, HUI YING FENG.

40. The damages suffered by Plaintiffs were caused by reason of the negligence, recklessness and malpractice of WOJCIECH RYNCARZ, M.D., acting in his capacity as an employee of the UNITED STATES.

41. By reason of the careless, negligent, unskillful medical care, treatment, diagnosis, services, and surgery, Plaintiffs incurred out of pocket expenses such as medical expenses.

42. That by reasons of the foregoing, GUO FA FENG, was, still is and will continue to be, deprived of the society, services and consortium of the Plaintiff, HUI YING FENG, and shall forever be deprived of said society, services and consortium.

WHEREFORE, Plaintiffs demand judgment against the Defendants:

- a) In favor of Plaintiff in an amount to be determined by the Court for each of Plaintiff's causes of action;
- b) Awarding Plaintiff punitive damages in an amount to be determined by the Court;
- c) Awarding Plaintiff compensatory damages in an amount to be determined by the Court;
- d) Granting such other and further relief as the Court deems just and proper.

Dated: Bayside, New York
May 31, 2020

/s/ Sang J. Sim

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